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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,961	08/22/2003	David M. Cooley	Cooley 2	8402
<div>46900759002/17/2010 MENDELSON, DRUCKER, & ASSOCIATES, P.C. 1500 JOHN F. KENNEDY BLVD., SUITE 405 PHILADELPHIA, PA 19102</div>				
EXAMINER				
CHO, HONG SOL				
ART UNIT		PAPER NUMBER		
2467				
MAIL DATE		DELIVERY MODE		
02/17/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/645,961

Applicant(s)

COOLEY, DAVID M.

Examiner

Hong Cho

Art Unit

2467

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-10 and 13-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-10 and 13-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This office action is in response to the amendment filed on 12/17/2009. Claims 3-10 and 13-29 are pending in the instant application.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
3. Claims 3-10 and 13-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gebis et al (US 6993290), hereinafter referred to as Gebis, in view of Lund (US 20050140499) and Bi (US 5136612).

Re claims 4 and 14, Gebis discloses wirelessly providing access to specialized content by a user over the Internet (column 1, line 1 to column 2, line 3). Gebis discloses a system comprising a portable personal radio (PPR) (*a user*, figure 1, element 12), a PPR server located between the Internet and the PPR (*wireless connection nodes in a geographically defined receiving area*, figure 1, element 14; column 2, lines 28-30) and

the wireless communication link between the two (*wirelessly providing, over the Internet, access to specialized content by a user, providing one or more wireless connection nodes in a receiving area; delivering to said one or more connection nodes only content selected by an operator of said one or more wireless connection nodes, and transmitting said delivered content via said one or more connection nodes*, column 2, lines 24-32).

Gebis fails to disclose delivering content selected by the operator independent of the user and independent of any preference of the user or the content available to the users is pre-specified based solely on the wireless connection node whose transmission the receiver receives, such that no determination of the user's current geographic location is required before the delivered content is transmitted. Lund discloses transmitting information without user request and determination of the user's current geographic location (paragraph [0024]). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Gebis with the teaching of Lund for the benefit of providing automatic delivery of critical information to mobile users.

Gebis discloses receiving a single stream of content pertaining to user's interest (*separately tuning to each of plural stations*, column 2, lines 1-4), but fails to transmit a unique spreading code for each of plural stations, receive the unique spreading codes, select one of plural stations to play to a first user the delivered content by using unique spreading codes associated with the selected one of plural stations. Bi discloses recovering signals for each of the plurality of radio channels (column 1, lines 38-49). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Gebis to implement the feature of sending a unique

spreading code for each station for the benefit of providing reliable and secure data communications.

Re claims 3 and 13, Gebis discloses receiving a single stream of content over the wireless link (*transmitting the delivered content over a single channel*, column 2, lines 63-66) and combining information from different sources by channel maxing (*subdividing the single channel so that plural content elements are provided on plural stations within the single channel*, column 3, lines 39-45).

Re claims 5-7 and 15-17, Gebis discloses getting traffic report of commute route (*delivering content that is local to the proximity of the connection nodes and particular content type*, column 2, lines 3-6).

Re claims 8 and 18, Gebis discloses receiving content that pertains only to the user's personal interests (*reception of only the delivered content*, column 2, lines 43-45).

Re claims 9 and 19, Gebis discloses a PPR client establishing communication with a PPR server (*sending an uplink signal from a receiver to one or more connection nodes to enable the user to communicate with the one or more wireless connection nodes*, column 2, lines 37-38).

Re claims 10 and 20, Gebis discloses a PPR server receiving a subscription from a PPR client and providing information only pertaining to the client (*configuring said wireless connection nodes to receive said uplink signal and, based upon said signal, perform a function desired to be performed by said user*, column 2, lines 51-57).

Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gebis in view of Lund.

Re claims 21 and 22, Gebis discloses wirelessly providing access to specialized content by a user over the Internet (column 1, line 1 to column 2, line 3). Gebis discloses a system comprising a portable personal radio (PPR) (*a user*, figure 1, element 12), a PPR server located between the Internet and the PPR (*wireless connection nodes in a geographically defined receiving area*, figure 1, element 14; column 2, lines 28-30) and the wireless communication link between the two (*wirelessly providing, over the Internet, access to specialized content by a user, providing one or more wireless connection nodes in a receiving area; delivering to said one or more connection nodes only content selected by an operator of said one or more wireless connection nodes, and transmitting said delivered content via said one or more connection nodes*, column 2, lines 24-32).

Gebis fails to disclose delivering content selected by the operator independent of the user and independent of any preference of the user or the content available to the users is pre-specified based solely on the wireless connection node whose transmission the receiver receives, such that no determination of the user's current geographic location is required before the delivered content is transmitted. Lund discloses transmitting information without user request and determination of the user's current geographic location (paragraph [0024]). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Gebis with the teaching of Lund for the benefit of providing automatic delivery of critical information to mobile users.

Gebis discloses receiving a single stream of content pertaining to user's interest (*separately tuning to each of plural stations*, column 2, lines 1-4). Gebis implicitly discloses one or more other wireless connection nodes in an other geographically defined receiving area different from said geographically defined receiving area, each of said one or more other wireless connection nodes including an other transmitter, wherein other content transmitted by each other transmitter is (1) specific to said other geographically defined receiving area, (2) selected independent of the user and independent of any preference of the user, and (3) different from said content specific to said geographically defined receiving area (column 2, lines 24-32).

Claims 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gebis in view of Lund and Huang et al (US 20020061073, "Huang")

Re claims 23-26, Gebis discloses receiving transmitted delivered content at the first time and other transmitted delivered content at the second time, wherein the content available to the receiver (column 3, lines 44-50) but fails to explicitly disclose at each of the first and second times is pre-specified based on the wireless connection node whose transmission the receiver receives, wherein when the users located in geographically defined receiving area enter other geographically defined receiving area, the users receive other transmitted delivered content with the receiver. Huang discloses receiving data from different sources according to TDMA scheme (paragraph [0071]). It would have been obvious to one having ordinary skill in the art at the time the invention was made to

modify the system of Gebis with the teaching of Huang for the benefit of providing timely content delivery.

Claims 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uematsu et al (US 2003009242, "Uematsu") in view of Bi.

Re claim 27, Uematsu discloses a wireless connection node (figure 1, element 3) receiving first media content originating from a first content source and second media content originating from a second content source (figure 1, two content servers, element 2), but fails to disclose the wireless connection node spreading the first content using a first spreading code and the second content using a second spreading code; and the wireless connection node broadcasting the first and second spreading codes and the spread first and second content, wherein a plurality of receivers configured (i) to receive the spread first and second content and the first and second spreading codes and (ii) to despread a selected one of the spread first and second content using a corresponding one of first and second spreading codes may play the selected one of the first and second content. Bi discloses recovering signals for each of the plurality of radio channels (column 1, lines 38-49). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Gebis to implement the feature of sending a unique spreading code for each station for the benefit of providing reliable and secure data communications.

Re claim 28, Gebis discloses receiving the first and second content from one or more other wireless connection nodes in other geographically defined receiving areas (column 2, lines 24-32).

Re claim 29, Gebis discloses the first and second contents are digital streaming media signals from digital streaming media servers (column 2, lines 34-40).

Response to Arguments

4. Applicant's arguments filed on 12/17/09 have been fully considered but they are not persuasive.

With regard to claims 4 and 14, the applicant argues that the motivation to combine Gebis, Lund and Schmidt lacks merit and the combination would not result use said unique spreading codes to the first user the delivered content. The argument is moot in light of new reference Bi that shows teaching on utilizing spread codes in content delivery and playing delivered content to a given user . In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

With regard to claims 21-26, refer to the claim rejections above.

With regard to claims 27-29, the argument is moot in view of new ground of rejection.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hong Cho whose telephone number is 571-272-3087. The examiner can normally be reached on Mon-Fri during 7 am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pankaj Kumar can be reached on 571-272-3011. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Hong Cho/
Primary Examiner, Art Unit 2467